

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANAND DASRATH,

CV 07-2433(CBA)(RR)

Plaintiff,

-against-

ROSS UNIVERSTIY SCHOOL OF MEDICINE,

Defendant.
-----X

PLAINTIFF ANAND DASRATH'S
MEMORANDUM OF LAW
IN OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS THE COMPLAINT

Respectfully submitted,

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Preliminary Statement

On June 15, 2007 Plaintiff Anand Dasrath (“Dasrath” and or “Plaintiff”) commenced an action in the United States District Court for the Eastern District of New York. Plaintiff’s Complaint alleges Defendant Ross University School of Medicine (“Ross” and or “Defendant”) engaged in unlawful age discrimination in violation of both the Age Discrimination Act of 1975, 42 U.S.C. § 6102, et seq. (“ADA”) and New York State Executive Law, New York State Human Rights Law § 296(4) (“NYSHRL”), as well as breach of contract and fraud.

By Notice of Motion dated November 30, 2007 Defendant moves to dismiss Plaintiff’s Complaint pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure (“Fed. R. Civ. Pro”) arguing the Court lacks subject matter jurisdiction over Plaintiff’s ADA claim and that Plaintiff’s Complaint failed to state a cause of action upon which relief may be granted as to his NYSHRL, breach of contract and fraud claims. Plaintiff submits this Memorandum of Law in opposition to Defendant’s Motion to Dismiss and, for the following reasons, Defendant’s motion to dismiss should be denied.

Statement of Facts

Dasrath enrolled in medical school at Defendant in May 2004 and was, upon information and belief, one of the oldest members of his class. Complaint at ¶6. Ross is a medical school located on the island of the Dominica in the West Indies (Def.’s Mem. at 1), with offices in Edison, New Jersey and Miami, Florida. (Complaint ¶3). Ross is an accredited institution by the United States Department of Education and receives various forms of Federal funding or financial assistance. *Id.*

In the Spring of 2006 Dasrath enrolled in, and took, the Advanced Introduction to Clinical Medicine (“AICM”) course at Defendant. Complaint at ¶7. According to Defendant,

AICM is a prerequisite course for eligibility to take the United States Medical Licensing Examination Step 1 (“USMLE 1”) (Def.’s Mem. at 2). USMLE 1 is the first of several examinations that foreign medical school students must pass to be able to practice medicine in the United States. *Id.*

Dasrath received his transcript in May 2006 and it had a “blank space” where his grade for AICM should have been. He demanded to review his academic file, including the scantron sheets he submitted his examination answers on, but his demands were denied. Plaintiff was advised by his professor, Dr. Fernandez, that he received a “94%” on the exam. Complaint at ¶7.

Previously, in March 2006, Plaintiff submitted an application to take the USMLE 1 which included a certification by Defendant that Dasrath was “officially enrolled in” school at Defendant. See Exhibit “1”. Plaintiff sat for and took the USMLE 1 on July 27, 2006 but his grade was not released as he was advised that he was “not authorized to take the exam” when he took it because he was not enrolled in a medical school at the time he took the examination. Complaint at ¶11. By letter dated June 29, 2006 Defendant notified Dasrath he had been “Administratively Withdrawn” from Ross “for failure to register for the May 2006 AICM course.” See Exhibit “2”. On August 14, 2008 Plaintiff received his grade for AICM, an “F”. Complaint at ¶12.

Plaintiff was advised that he had indeed passed the AICM class and that AICM was not a prerequisite to taking the USMLE 1. Plaintiff was told the NBME comprehensive exam was the prerequisite for taking the USMLE 1. Plaintiff passed the NBME. *Id.* Plaintiff approached his student advisor and was told not to “rock the boat” because Defendant discriminates on the basis of age. Complaint at ¶14.

Standard of Review

When considering a motion to dismiss pursuant to Fed. R. Civ. Pr. 12(b)(1) for lack of subject matter jurisdiction the court must accept the factual allegations made in the complaint as true and reasonable inferences must be drawn in favor of the plaintiff. Russian Standard Vodka, Inc., et al., v. Allied Domecq Spirits & Wine USA, Inc., et al., 523 F. Supp. 2d 376, 378 (S.D.N.Y., 2007)(citing Lunney v. United States, 319 F.3d 550, 554 (2d Cir., 2003). The court may resolve disputed facts by reference to evidence outside the pleadings, including affidavits. Id. (citing State Employees Bargaining Agent Coal. v. Rowland, 494 F.3d 71, 75 (2d Cir., 2007).

In deciding a motion to dismiss pursuant to Fed. R. Civ. Pro. 12(b)(6), the court's role is to "assess the legal feasibility of the complaint, not to assay the evidence which might be offered in support thereof." Barea v. State Univ. of N.Y. at Albany, 2006 U.S. Dist. LEXIS 46681*8 (N.D.N.Y.)(quoting AmBase Corp. v. City Investing Co. Liquidating Trust, 326 F.3d 63, 72 (2d Cir., 2003). A Rule 12(b)(6) motion should result in dismissal of the complaint when 'it appears beyond doubt that the plaintiff can prove no set of facts in support of the complaint which would entitle him to relief.' Id. (quoting Twombly v. Bell Atl. Corp., 425 F. 3d 99, 106 (2d Cir., 2005)). When reviewing a motion to dismiss, the court "must accept the facts alleged in the complaint as true and construe all reasonable inferences in [the plaintiff's] favor." Id. (quoting Fowlkes v. Adamec, 432 F.3d 90, 95(2d Cir., 2005)(internal citations omitted).

Argument

Point I

The Court Has Subject Matter Jurisdiction

The ADA requires "as a prerequisite to suit, that notice of the action be given thirty days prior to commencing suit to 'the Secretary of Health and Human Services, the Attorney General

of the United States, and the person against whom the action is directed.” Barea, 2006 U.S. Dist. LEXIS 46681*15(quoting 42 U.S.C. § 6104(e)(1)). “This notice must set forth the alleged violation of the ADA, the relief requested, the court in which the action shall be brought, and whether attorney’s fees will be demanded.” Id (citing 42 U.S.C. § 6104(e)(2)).

In 2006, Plaintiff contacted the attorney general and the United States Attorney for New Jersey and was advised that because a grade had been issued that the attorney general would not investigate his claim of an ADA violation and he was instructed to file a complaint in court. See Exhibit “3”. Plaintiff, therefore, did comply with the spirit and intent of the notice provisions of the ADA as well as exhausting his administrative remedies and, therefore, this court does have subject matter jurisdiction over his ADA cause of action and Defendant’s motion to dismiss should be denied.

Point II

Plaintiff Has Properly Plead a Claim for Breach of Contract

An implied contract arises when a student enrolls in a university. If the student complies with the terms prescribed by the university, the student will obtain the degree they seek. See Gally v. Columbia Univ., et al., 22 F. Supp. 2d 199, 206 (S.D.N.Y., 1998)(internal citations omitted). “Implicit in this contract is that the university must act in good faith in dealing with the student.” Id. (internal citations omitted). “[T]erms of the implied contract are supplied by the bulletins, circulars, and regulations made available to the student. Id. (citing Clarke v. Trustees of Columbia Univ., 1996 U.S. Dist. LEXIS 15620*5 (S.D.N.Y., 1996).

Plaintiff contracted with Defendant and paid Defendant tuition in consideration of Defendant preparing Plaintiff to become a licensed medical doctor eligible to practice medicine in the United States. Pursuant to the contract, Defendant was to accurately record Plaintiff’s

grades and sponsor Plaintiff to take the USMLE 1. Plaintiff's complaint alleges numerous instances of the breach of that contract. See Complaint at ¶¶ 7, 8, 9, 11, 12, 13 and 14. Therefore, Defendant's motion to dismiss Plaintiff's cause of action for breach of contract should be denied.

Point III

Plaintiff Has Properly Plead a Claim for Fraud

Fed. R. Civ. P. 9(b) requires causes of action grounded in fraud to be plead with particularity. See Fed. R. Civ. P. 9(b); *see also*, Ward v. N.Y. Univ., et al., 2000 U.S. Dist. LEXIS 14067*18-19(S.D.N.Y.). "[T]he complaint must: i) specify the fraudulent statements; ii) identify the speaker; iii) state where and when the statements were made; and iv) explain why the statements were fraudulent." Ward, 2000 U.S. Dist. LEXIS 14067 at 19 (citing Mills v. Polar Molecular Corp., 12 F.3d 1170, 1175 (2d Cir., 1993)). Additionally, a plaintiff must put forward proof of scienter by "alleging facts 'giving rise to a strong inference of fraudulent intent.'" *Id.* (quoting Shields v. Citytrust Bancorp., 25 F.3d 1124, 1127-28 (2d Cir., 1994)). Such a showing can be accomplished by "alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness." Shields, at 1128.

Liberalizing construing the complaint, as this Court must do, the representations in Plaintiff's complaint give sufficient notice to allow Defendant to prepare a defense. Plaintiff's complaint alleges that he was advised he received a "94%" by his professor Dr. Fernandez in May 2006, Complaint at ¶7, that in August 2006 his grade was listed as an "F", Complaint at ¶12, that he was certified to take the USMLE 1 by Defendant, Complaint at ¶8, and that his USMLE 1 score was not released because he was not authorized to take the exam, Complaint at ¶11. Plaintiff's complaint further alleged that on August 14, 2006 he learned he was not required

to take AICM and could have taken the NBME as a prerequisite for the USMLE 1. Complaint at ¶ 12.

Plaintiff's Exhibit "3" constitutes strong circumstantial evidence of Ross' misbehavior and recklessness as it shows that in June 2006 Plaintiff was administratively withdrawn from Defendant for not registering for the AICM course even though he received an "F" from Defendant for the same course in August 2006 which begs the question of how Plaintiff could have failed a course at Ross that Ross claimed he had not even registered for and which lead to his administrative withdrawal from Ross.

Finally, Defendant argues that "New York law does not allow a Plaintiff to assert a breach of contract claim grounded on the same set of underlying facts." Def.'s Mem. at 5. (quoting Hirsch v. Columbia Univ., 293 F. Supp. 2d 372, 379-380 (S.D.N.Y., 2003). However, "[w]here the two causes of action relate to the same operative facts, to maintain a separate claim for fraud, a plaintiff must'...(ii) demonstrate a fraudulent misrepresentation collateral or extraneous to the contract.'" *Id.* (quoting TVT Records v. Island Def Jam Music Group, 244 F. Supp. 2d 263, 276 (S.D.N.Y., 2003)(internal quotations omitted). Plaintiff has alleged fraudulent representations that were collateral or extraneous to the contract. For instance, Plaintiff never alleged that he contracted with Defendant to receive a grade of "94%" or an "F", however, the misrepresentation or fraudulent reporting of his grades are the facts alleged that give rise to his cause of action based in fraud. Plaintiff has properly plead a cause of action for fraud and Defendant's motion to dismiss Plaintiff's fraud cause of action should be denied in its entirety.

Point IV

**Plaintiff Has Plead
a Claim of Age Discrimination
Pursuant to NYSHRL**

Defendant claims Plaintiff's NYSHRL age discrimination cause of action fails on two different bases. Initially, Defendant claims that because it is organized and existing under the laws of the Commonwealth of Dominica in the Eastern Caribbean that it is not tax exempt under New York Tax Law and, therefore, not subject to NYSHRL by definition. Defendant also claims that because Plaintiff received an "F" he was not otherwise qualified pursuant to NYSHRL. Defendant fails to submit any proof of the location of its incorporation or tax status and fails to explain how it gave Plaintiff an "F" as a grade in a course that it claims Plaintiff never registered for and caused his being administratively withdrawn from Ross. Def.'s Mem. At 5-7. As such, Defendant's motion to dismiss Plaintiff's NYSHRL cause of action should be denied in its entirety.

Conclusion

Based upon the foregoing, Plaintiff respectfully requests that this Honorable Court issue an Order: (1) denying Defendant's motion in its entirety; (2) allowing Plaintiff an opportunity to make a motion for a stay of the proceedings pursuant to the pre-motion conference letter dated May 20, 2008; (3) allowing Plaintiff an opportunity to amend his complaint and remedy any deficiencies in same should the Court grant any part of Defendant's motion to dismiss; and,

(4) granting Plaintiff such other and further relief as this Court may deem just and proper.

Dated: Commack, New York
May 22, 2008

Respectfully submitted,
Law Offices of
Albert Adam Breud, P.L.L.C.

By: /s/ Albert Adam Breud, II (AB 2355)
356 Veterans Memorial Highway
Suite 8N
Commack, New York 11725
Telephone: (631) 543-3030
Facsimile: (631) 543-2888
Attorney for Plaintiff

EXHIBIT 1



UNITED STATES MEDICAL LICENSING EXAMINATION™ (USMLE™)

2006 STEP 1, STEP 2 CLINICAL KNOWLEDGE (CK), AND/OR STEP 2 CLINICAL SKILLS (CS)

APPLICATION FORM

FOR INTERNATIONAL MEDICAL STUDENTS/GRADUATES REGISTERED BY THE EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES

TELEPHONE: (215) 366-8800 INTERNET: www.ecfm.org

This application is valid through August 31, 2006. See instructions.

MAILING INSTRUCTIONS:

via regular mail to:

Educational Commission for Foreign Medical Graduates
PO Box 48087
Newark, NJ 07101-4887 USA

OR

via courier service to:

ECFMG
c/o Image Remit
205 North Center Drive
Commerce Center
North Brunswick, NJ 08902 USAVERY
IMPORTANT2
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1. THE ECFMG® REPORTER:

Applicants who supply their e-mail addresses to us as part of the application process will automatically receive our newsletter, *The ECFMG® Reporter*. *The ECFMG® Reporter* provides important information about the certification process and entry into graduate medical education in the United States, as well as information about services and programs offered by other organizations in connection with the education in the United States.

The ECFMG® Reporter is a free publication. ECFMG will not share *The ECFMG® Reporter* with any third parties. Interested individuals can join or leave *The ECFMG® Reporter* subscriber list at any time by visiting the ECFMG website at www.ecfm.org/reporter/subscribe.html or by writing to: Director of Communications, ECFMG, 3624 Market Street, Philadelphia, PA, 19104-2685, USA.

If you do not wish to receive *The ECFMG® Reporter*, check the box at right. ☐

Please note that ECFMG may share certain information contained in your application with other organizations under specified circumstances. For further information regarding ECFMG's data collection and privacy practices, please refer to our Privacy Policy available on the ECFMG website at www.ecfm.org/annoc/privacy.html.

2. EXAMS FOR WHICH YOU ARE APPLYING:

Indicate the exam(s) for which you are applying with this application. Check all that apply:

☒ Step 1 ☐ Step 2 CK ☐ Step 2 CS

PART A — BIOGRAPHICAL INFORMATION

ECFMG

PROCESSING DEPARTMENT

MAR 31 2006

3. ECFMG EXAMINATION HISTORY:

Refer to the instructions for this item. If you do not answer accurately, this may result in a finding of irregular behavior.

Have you ever submitted an application to ECFMG for any examination, even if you did not take the examination? ☐ Yes ☒ No

If you have been assigned a USMLE/ECFMG Identification Number, complete either 3.A or 3.B:

3.A Enter your USMLE/ECFMG Identification Number:

0-704-162-7

OR 3.B Check here if you do not know ☐ your number.

4. NAME (PRINT CLEARLY):

ANAND

First Name(s)

EMANUEL

Middle Name(s)

DASRATH

Last Name (Surname/Family Name)

4.1 NAME ON MEDICAL DIPLOMA (Pertains to graduates only):

First Name(s)

Middle Name(s)

Last Name (Surname/Family Name)

Note: See instructions if this name does not match the name in your ECFMG record.

PART A CONTINUES ON PAGE 2.

Page 1 of 7

APPLICATION FORM 1045-W, August 2005 ©ECFMG 2005 All Rights Reserved

RECEIVED

MAR 28 2006

ECFMG
MAILROOM 1

2006

Name: DASRATH, ANAND EMMANUEL Enter your USMLE/ECFMG Identification Number, if one has been assigned to you: 0-7104-162-7
(Last, First, Middle - as entered in item 4)

PART B — REGISTRATION INFORMATION

STEP 1 AND/OR STEP 2 CK APPLICANTS ONLY
COMPLETE ITEMS 13 THROUGH 16

2006

13. EXAMINEES WITH DOCUMENTED DISABILITIES:

I have a documented disability and am covered under the Americans with Disabilities Act. I am requesting test accommodations for the exams (Step 1 and/or Step 2 CK) selected below. ☐ Yes ☒ No

14. STEP 1: Fill in completely one circle each for eligibility period and testing region.**14.1 Eligibility Period — select one:**

- ☐ November 1, 2005 – January 31, 2006*
☐ December 1, 2005 – February 28, 2006*
☐ January 1, 2006 – March 31, 2006*
☐ February 1, 2006 – April 30, 2006
☐ March 1, 2006 – May 31, 2006
☒ April 1, 2006 – June 30, 2006
☐ May 1, 2006 – July 31, 2006
☐ June 1, 2006 – August 31, 2006
☐ July 1, 2006 – September 30, 2006
☐ August 1, 2006 – October 31, 2006
☐ September 1, 2006 – November 30, 2006
☐ October 1, 2006 – December 31, 2006

*USMLE Step 1/Step 2 CK are not offered during the first two weeks in January.

14.2 Testing Region — select one:

REGION	SURCHARGE
<input checked="" type="radio"/> United States and Canada	\$0
<input type="radio"/> Africa (For Egypt, select Middle East testing region.)	\$120
<input type="radio"/> Asia (For India, select India testing region.)	\$120
<input type="radio"/> Australia	\$120
<input type="radio"/> China (For Hong Kong, select Asia testing region.)	\$120
<input type="radio"/> Europe	\$150
<input type="radio"/> India	\$120
<input type="radio"/> Indonesia	\$120
<input type="radio"/> Japan	\$290
<input type="radio"/> Korea	\$150
<input type="radio"/> Latin America	\$120
<input type="radio"/> Middle East (For Tel Aviv, select Europe testing region.)	\$120
<input type="radio"/> Taiwan	\$150
<input type="radio"/> Thailand	\$120

14.3 Fees

14.3.1 Step 1 Exam Fee \$ 695.00

14.3.2 International Test Delivery SurchARGE + 00.00
(For United States and Canada, enter \$0.)

14.3.3 Step 1 Subtotal = \$ 695.00

15. STEP 2 CK: Fill in completely one circle each for eligibility period and testing region.**15.1 Eligibility Period — select one:**

- ☐ November 1, 2005 – January 31, 2006*
☐ December 1, 2005 – February 28, 2006*
☐ January 1, 2006 – March 31, 2006*
☐ February 1, 2006 – April 30, 2006
☐ March 1, 2006 – May 31, 2006
☐ April 1, 2006 – June 30, 2006
☐ May 1, 2006 – July 31, 2006
☐ June 1, 2006 – August 31, 2006
☐ July 1, 2006 – September 30, 2006
☐ August 1, 2006 – October 31, 2006
☐ September 1, 2006 – November 30, 2006
☐ October 1, 2006 – December 31, 2006

*USMLE Step 1/Step 2 CK are not offered during the first two weeks in January.

15.2 Testing Region — select one:

REGION	SURCHARGE
<input type="radio"/> United States and Canada	\$0
<input type="radio"/> Africa (For Egypt, select Middle East testing region.)	\$130
<input type="radio"/> Asia (For India, select India testing region.)	\$130
<input type="radio"/> Australia	\$130
<input type="radio"/> China (For Hong Kong, select Asia testing region.)	\$130
<input type="radio"/> Europe	\$165
<input type="radio"/> India	\$130
<input type="radio"/> Indonesia	\$130
<input type="radio"/> Japan	\$315
<input type="radio"/> Korea	\$165
<input type="radio"/> Latin America	\$130
<input type="radio"/> Middle East (For Tel Aviv, select Europe testing region.)	\$130
<input type="radio"/> Taiwan	\$165
<input type="radio"/> Thailand	\$130

15.3 Fees

15.3.1 Step 2 CK Exam Fee \$ 695.00

15.3.2 International Test Delivery SurchARGE + 00.00
(For United States and Canada, enter \$0.)

15.3.3 Step 2 CK Subtotal = \$ 695.00

16. STEP 1/STEP 2 CK SUBTOTAL:

Add the subtotals from 14.3.3 and 15.3.3 and enter total at right.

\$ 1,390.00

PART B CONTINUES ON PAGE 4.

Name: DASRATH ANAND EMANUEL Enter your USMLE/ECFMG Identification Number, if one has been assigned to you: 0710411627
 (Last, First, Middle - as entered in item 4)

PART B — REGISTRATION INFORMATION (Continued)

17. APPLYING FOR STEP 2 CS:

I am applying for Step 2 CS. ☐ Yes ☐ No

STEP 2 CS APPLICANTS ONLY
COMPLETE ITEMS 18 THROUGH 20

18. ELIGIBILITY PERIOD, TEST CENTER, AND REGISTRATION DOCUMENTS

18.1 ELIGIBILITY PERIOD:

Applicants registered for Step 2 CS are assigned a twelve-month eligibility period that begins on the date that the registration process is complete and must take the exam within their assigned eligibility period. See page 23 of the 2006 *Information Booklet*.

18.2 CLINICAL SKILLS EVALUATION CENTERS:

Clinical skills evaluation centers for Step 2 CS are located in Atlanta, Georgia; Chicago, Illinois; Houston, Texas; Los Angeles, California; and Philadelphia, Pennsylvania in the United States. You will select your test center when you schedule your testing appointment.

18.3 PREFERRED TEST CENTER:

Select the test center where you plan to take the exam. This information will be used **only** to forecast demand for test centers. Completing this item does **not** select your test center. See instructions.

☐ Atlanta ☐ Houston ☒ Philadelphia
☐ Chicago ☐ Los Angeles

18.4 PREFERRED TESTING MONTH:

Enter the month and year during which you plan to take the exam. This information will be used **only** to forecast demand for the exam throughout the year. Completing this item does **not** select your testing month/year. See instructions.

5 / 2006
 MONTH YEAR

18.5 SCHEDULING PERMIT:

Once you are registered for Step 2 CS, ECFMG will e-mail your Step 2 CS scheduling permit to the e-mail address in your ECFMG record. If you are unable to receive your scheduling permit by e-mail, check the box below, and your scheduling permit will be sent to you via postal mail.

☐ I am unable to receive my scheduling permit by e-mail. Send my scheduling permit via postal mail.

18.6 VISA LETTER:

See instructions before completing this item.

☐ I am requesting a visa letter to be sent to me by postal mail, after completion of my registration.

19. EXAMINEES WITH DOCUMENTED DISABILITIES: I have a documented disability and am covered under the Americans with Disabilities Act. I am requesting test accommodations for Step 2 CS. See instructions. ☐ Yes ☐ No

20. STEP 2 CS SUBTOTAL:

The Step 2 CS Fee is \$1,200. If applying for Step 2 CS, enter \$1,200 at right.

\$, .

ALL APPLICANTS
COMPLETE ITEMS 21 THROUGH 28

21. TOTAL FEE(S) FOR ALL EXAMS:

Add the subtotals from 16 and 20 and enter total at right.

\$, .

22. PAYMENT

If you have a USMLE/ECFMG Identification Number, you can pay the required fees on-line using OASIS on the ECFMG website.

OR

You can also complete the following payment form and submit it with your application.

Payment of the required fees is due at the time of application.

For Office Use Only

ACCOUNT

APR - 7 2006

CREDITED

2006

Name: DASRATH ANAND EPIANUEL Enter your USMLE/ECFMG Identification Number, if one has been assigned to you. 0-7104-162-7
(Last, First, Middle - as entered in item 4)

PART C — MEDICAL EDUCATION AND EMPLOYMENT INFORMATION

23. MEDICAL SCHOOL NAME AND ADDRESS:

List the exact name and address of the medical school from which you graduated or expect to graduate.

Official Name of Medical School ROSS UNIVERSITY SCHOOL OF MEDICINE
Office of the Registrar
Street Address P.O. BOX 266, PORTSMOUTH, VERMONT, VT
City C/O ADMINISTRATIVE OFFICES State/Province _____ Postal Code _____
Country _____ University Name (if applicable) _____

2
0
0
6

23.1 MEDICAL SCHOOL INFORMATION:

- Attendance Dates: (Dates you entered the medical school listed in Item 23 and completed, or will complete, requirements for final medical diploma): From 5 / 2004 to 3 / 2008
MONTH YEAR MONTH YEAR
- Number of Years Attended/Will Attend: 4
- Date you graduated (or expect to graduate): 3 / 2008
MONTH YEAR
- Date your medical diploma was issued (or is expected to be issued): 3 / 2008
MONTH YEAR
- Title of Medical Degree you received or will receive Doctor of Medicine
Refer to the Reference Guide for Medical Education Credentials on pages 53-57 of the 2006 Information Booklet for a list of the medical degrees required by ECFMG.
- Are you required to complete an internship prior to receiving your medical diploma? ☐ Yes ☒ No
If yes, enter the start and end dates of the internship: From _____ / _____ to _____ / _____
MONTH YEAR MONTH YEAR

23.2 STATUS OF MEDICAL SCHOOL STUDENT — Must be completed by all students:

Students must answer both questions:

- Will you have completed the basic medical science component of your medical school curriculum by the beginning of your assigned eligibility period (see PART B: 14.1, 15.1, and/or 18.1)? ☒ Yes ☐ No
- Are you now officially enrolled in medical school and, at the time you take the exam, will you either still be officially enrolled or have graduated from medical school? ☒ Yes ☐ No

23.3 MEDICAL SCHOOL DIPLOMA — Must be completed by all graduates: If you have graduated from medical school, you must include two photocopies of your medical diploma if you have not sent them previously. If you graduated from medical school but your medical diploma has not yet been issued, you must submit with your application a letter signed by your Medical School Dean, Vice Dean, or Registrar that confirms you graduated from medical school, have met all requirements to receive your medical diploma, and states the date (month and year) your medical diploma will be issued. Additionally, the name on your medical diploma must match the name in your ECFMG record. If the name on your medical diploma does not match the name you entered in item 4, you must submit legal documentation that verifies the name on your diploma is/was your name. (See *Provision of Credentials and Translations* on page 34 of the 2006 Information Booklet.)

Graduates must check one:

- ☐ I have graduated from medical school and am enclosing the ECFMG Medical Education Credentials Submission Form (Form 344), Medical School Release Request (Form 345), two photocopies of my medical diploma, and a photograph.
- ☐ I have graduated from medical school and have previously submitted to ECFMG photocopies of my medical diploma.
- ☐ I have graduated from medical school, but my medical diploma has not yet been issued. I am enclosing the ECFMG Medical Education Credentials Submission Form (Form 344); Medical School Release Request (Form 345); a letter from my medical school that confirms I graduated, have met the requirements to receive my medical diploma, and states the date my medical diploma will be issued; and a photograph.

Note: ECFMG requires copies of the original language medical diploma or letter from the medical school. If the medical diploma or letter is not in English, you must also submit an official English translation. Your application will be rejected if you graduated from medical school and have not submitted photocopies of your medical diploma or a letter from your medical school that confirms your graduation (as described above).

24. OTHER MEDICAL SCHOOL(S) ATTENDED — Continue on a separate sheet of paper, if necessary:

List the names, addresses, dates of attendance, and number of years attended for all other medical schools you attended.

Official Name of Medical School _____
Street Address _____
City _____ State/Province _____ Postal Code _____
Country _____ University Name (if applicable) _____
Attendance Dates: From _____ / _____ to _____ / _____ Number of Years Attended: _____
MONTH YEAR MONTH YEAR

24.1 TRANSFER CREDITS:

Did you transfer academic credits from any school(s) to the medical school that conferred or will confer your medical degree? ☐ Yes ☐ No
If Yes, indicate on a separate sheet of paper the name of the school(s) from which the credits were transferred, the number of credits transferred, and the course titles for all credits transferred.

25. EMPLOYMENT — Present employment only:

Institution/Company _____ Position _____ Beginning Date _____
Street Address _____ City _____ State/Province _____ Country _____

Name: DASRATH, ANAND EMANUEL Enter your USMLE/ECFMG Identification Number, if one has been assigned to you: 07104-1162-7
(Last, First, Middle - as entered in Item 4)

PART C — MEDICAL EDUCATION AND EMPLOYMENT INFORMATION

26. CERTIFICATION BY APPLICANT: Students and graduates must sign the application in the presence of their Medical School Dean, Vice Dean or Registrar. (See 26.2.A below.)

If a graduate cannot sign the application form in the presence of a medical school official noted above, he/she must sign the application form in the presence of a Consular Official, First Class Magistrate or Notary Public. (See 26.2.B below.) Application forms are to be mailed to ECFMG from the office of the official or notary who witnesses the applicant's signature. All information on the application form is subject to verification and acceptance by the Educational Commission for Foreign Medical Graduates.

I hereby certify that I currently meet the examination eligibility requirements and that the information in this application is true and accurate to the best of my knowledge and that the photograph(s) enclosed were taken within 6 months of the date of this application. I also certify and acknowledge that I have read the 2006 ECFMG Information Booklet and 2006 USMLE Bulletin of Information, am aware of the contents of both publications, meet the eligibility requirements set therein and agree to abide by the policies and procedures therein.

I understand that (1) falsification of this application, or (2) the submission of any falsified documents to ECFMG, or (3) the submission of any falsified ECFMG documents to other agencies, or (4) the giving or receiving of aid in the examination as evidenced either by observation at the time of the examination or by statistical analysis of my answers and those of one or more other participants in that examination, or engaging in other conduct that subverts or attempts to subvert the examination process, may be sufficient cause for ECFMG to bar me from the examination, to terminate my participation in the examination, to withhold and/or invalidate the results of my examination, to withhold a certificate, to revoke a certificate, or to take other appropriate action. (See page 35 of the 2006 Information Booklet for additional details concerning Validity of Scores and Irregular Behavior.)

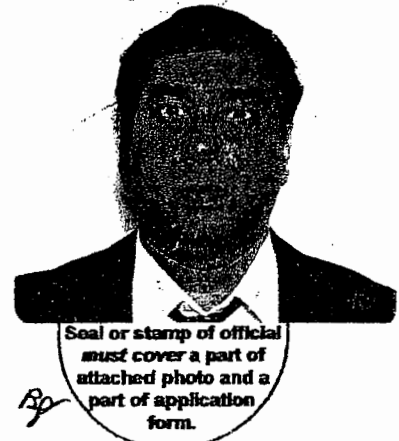
I understand that the Standard ECFMG Certificate and any and all copies thereof remain the property of ECFMG and must be returned to ECFMG if ECFMG determines that the holder of the Certificate was not eligible to receive it or that it was otherwise issued in error.

I request and authorize every person, medical school, university, hospital, government agency, or other entity to release information, records, diplomas, transcripts and other documents concerning my professional education, academic status or enrollment to ECFMG upon request of ECFMG.

I hereby authorize ECFMG to transmit any information contained in this application, or information that may otherwise become available to ECFMG, to any federal, state or local governmental department or agency, to any hospital or to any other organization or individual who, in the judgment of ECFMG, has a legitimate interest in such information. For further information regarding ECFMG's data collection and privacy practices, please refer to our privacy policy available on the ECFMG website at www.ecfm.org/and/privacy.html.

Signature of Applicant (in Latin characters) x Anand Emanuel Dasrath
(Signature must match full legal name as given in PART A-4.)

12 03 2006
Day Month Year



Certifying official must also complete item 26.2.A or 26.2.B below.

26.2 CERTIFICATION BY OFFICIAL:

26.2.A CERTIFICATION BY MEDICAL SCHOOL OFFICIAL (Must be completed for medical school students):

I hereby certify that the photograph, signature, and information entered in all parts of Section 23 of this form, including medical school, attendance dates, and status of medical school student (if applicable) accurately apply to the individual named above, and that this individual is: (must check one)
☒ officially enrolled in or ☐ a graduate of the institution indicated below. I have affixed the medical school seal or stamp over a portion of the photograph above.

Signature of Medical School Official (in Latin characters) x Bryette Sena

20 03 2006
Day Month Year

Bryette Sena
Print Name (in Latin characters)

ASSOCIATE REGISTRAR OF CLINICAL SCIENCES ROSS UNIVERSITY

Official Title (with English translation, if not in English) Institution

SCHOOL OF MEDICINE

OR

26.2.B CERTIFICATION BY OFFICIAL IDENTIFICATION (Pertains to graduates only):

I certify that on the date set forth below the individual named above did appear personally before me and that I did identify this applicant by: (a) comparing his/her physical appearance with the photograph on the identifying document presented by the applicant and with the photograph affixed hereto, and (b) comparing the applicant's signature made in my presence on this form with the signature on his/her identifying document. The statements in this document are subscribed and sworn to before me by the applicant

on this _____ day, of the month of _____, in the year _____

X

Signature of Consular Official, First Class Magistrate, or Notary Public (in Latin characters) Title (with English translations, if not in English)

2
0
0
6

27. CLINICAL CLERKSHIPS — Continue on a separate sheet of paper, if necessary:

Clinical Discipline	Hospital/Clinic	Location (exact address)	Supervising Physician	Dates of Clerkship

PART D — OTHER EXAM HISTORY AND APPLICANT NUMBERS

28. OTHER EXAM HISTORY AND APPLICANT NUMBERS:

Check below the organizations (other than ECFMG) to which you previously applied for examinations. Enter the date of the most recent examination that was administered to you and the identification number that was assigned to you by that organization.

☐ NATIONAL BOARD OF MEDICAL EXAMINERS

Applicant Identification Number: - -
USMLE Steps 1/2

Date of Most Recent Examination Taken: Month Year
Month Year

Applicant Identification Number:
NBME Parts I/II

Date of Most Recent Examination Taken: Month Year
Month Year

☐ STATE LICENSING AUTHORITY IN THE UNITED STATES

Applicant Identification Number:
FIN - Federation FLEX

Date of Most Recent Examination Taken: Month Year
Month Year

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANAND DASRATH,

CV 07-2433(CBA)(RR)

Plaintiff,

-against-

DECLARATION

ROSS UNIVERSTIY SCHOOL OF MEDICINE,

Defendant.
-----X

I, Anand Dasrath, pursuant to 28 U.S.C. § 1746 (2), declare the following under the pains and penalties of perjury:

1. I am the Plaintiff in the above-entitled action.
2. In 2006 after my United States Medical Licensing Exam 1 ("USMLE 1") score was withheld as a result of Defendant Ross University School of Medicine ("Defendant") revoking its sponsorship of me by stating that I was not enrolled as a student there, I contact the United States Attorney General via the United States Attorney for New Jersey and at the Department of Justice headquarters in Washington, D.C.
3. I was told by representatives at both locations that the Attorney General would not intervene and that I should file suit in court.
4. The representative from the United States Attorney in New Jersey advised me that their office received many complaints against the Defendant from older students and colored students.

Dated: Queens Village, New York
May 22, 2008


Anand Dasrath

**School of Medicine
Office of the Registrar**

Campus: PO Box 266, Portsmouth, Dominica, West Indies
Administrative Offices: 499 Thornall Street, 10th Floor
Edison, NJ 08837-2235
TEL: (732) 978-5300 FAX (732) 978-5306
Email: Registrar@rossmed.edu
www.rossmed.edu



June 29, 2006

Dear Anand E Dasrath:

I regret to inform you that effective immediately you have been Administratively Withdrawn from Ross University, School of Medicine for failure to register for the May 2006 AICM course. RUSM policy dictates that students must successfully complete the AICM course and pass USMLE Step 1 before advancing into the clinical curriculum. In order for a student to remain enrolled with RUSM, they must either be registered for courses and/or registered for the Boards. Once a student becomes inactive, they are Administratively Withdrawn from RUSM.

Please be advised that if you are a recipient of federal guaranteed student loans, we must inform your lender(s) that you have not attended Ross University since the last day you attended classes or rotated in a clinical clerkship. The impact of your withdrawn status on your federal guaranteed student loans will depend on your specific situation, applicable regulations and the terms and conditions of your loan(s).

Should you ever wish to resume your studies at Ross University School of Medicine, you will be required to submit an application for re-admission to the Admissions Department and be reviewed by the Admissions Committee. To do so, please complete an Admissions application, indicating the reasons of your withdrawal, and submit it to the Admissions Office.

Best wishes in your future endeavors.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Rendon', written over a horizontal line.

Michael Rendon
University Registrar

Cc: Bursar
Financial Aid
Clinical Department